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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/660,916

09/12/2003

Willy Furrer

148505-1

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7590

07/19/2006

GEAM - SILICONES - 60SI

IP LEGAL

ONE PLASTICS AVENUE

PITTSFIELD, MA 01201-3697

EXAMINER

RABAGO, ROBERTO

ART UNIT

PAPER NUMBER

1713

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,916

Applicant(s)

FURRER ET AL.

Examiner

Roberto Rábago

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1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Prosecution is reopened in view of new grounds of rejection based on newly located prior art, as set forth below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 34-39, 41-47, 49 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Voigt et al. (US 4,048,129).

The reference discloses in Example 2 a method of crosslinking polyethylene in the presence of two peroxides, vinyl trimethoxysilane, and water. The optional inclusion of antioxidants is disclosed at col. 4, line 12. The reference has not disclosed half-life temperatures; however, Perkadox 14 is di-t-butylperoxy isopropyl benzene, which is expressly within the scope of the both initiators, and t-butylperoxy isonanoate would appear to have a half-life temperature within the claimed range because numerous similar t-butylperoxy structures as discussed in applicants' specification have half-life temperatures well above 80°C. The burden of proof is shifted to applicants to show that

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t-butylperoxy isonanoate would not have a half-life temperature within the claimed range of 80° to 160°C.

Claim Rejections - 35 USC § 103

4. Claims 40 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Voigt et al. (US 4,048,129) in view of Scott et al. (US 3,646,155).

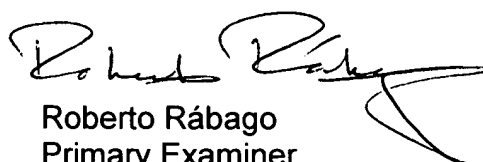
The parent claims are discussed with respect to this reference above. Missing from Voigt is the recommendation to use the claimed peroxides. However, the reference is primarily concerned with providing a description of the basic process, and does not provide lists of simple alternative components which would clearly be effective in the disclosed process. As such, one of ordinary skill in the art would readily conclude that the reference process would function equally well with an array of alternative peroxide compounds which are well known in processes of crosslinking polyolefins using peroxide, a vinyl silane and water. Scott describes a similar process for crosslinking of polyethylene, and discloses that an array of peroxides, including numerous species from applicants' claims 40 and 48, such as dicumyl peroxide, di-t-butyl peroxide, and others are useful in the process (bridging col. 2-3). One of ordinary skill in the art would be motivated to use alternative peroxides, such as those disclosed in Scott, because the claimed scope of species includes an array of peroxides which are well established as useful alternatives in processes of polyolefin crosslinking reactions.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roberto Rábago whose telephone number is (571) 272-1109. The examiner can normally be reached on Monday - Friday from 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Roberto Rábago
Primary Examiner
Art Unit 1713

RR
July 17, 2006